

LAW AND PUBLIC SAFETY

DIVISION OF GAMING ENFORCEMENT

Suspicious Transaction Reporting by Casino Licensees

Concurrent Reporting; Currency Transaction Reporting

Proposed New Rules: N.J.A.C. 13:69-1.6 and 1.7

Proposed Amendment: N.J.A.C. 13:69-1.2

Authorized By:



Thomas N. Auremma, Director, Division of Gaming Enforcement

Authority: N.J.S.A. 5:12-129.1 et seq., specifically 5:12-129.4.

Calendar Reference: See Summary below for explanation of exception to calendar requirements.

Proposal Number: PRN 2004-277

Submit written comments by September 17, 2004 to:

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The agency proposal follows:

Summary

The Casino Control Act (Act), P.L. 1999, c.352, N.J.S.A. 5:12-129.1 et seq., requires casino licensees to report suspicious transactions involving or aggregating at least \$5,000 to the

Director of the Division of Gaming Enforcement (Division). The rules promulgated thereunder at N.J.A.C. 13:69 amplify the definition of a suspicious transaction and create a regulatory framework for reporting same. The new rules and amendments proposed herein are designed to refine and enhance the existing methodology for detecting and preventing money laundering, structuring (breaking down currency transactions in amounts under \$10,000 to evade Bank Secrecy Act reporting requirements) and other types of financial crimes in the gaming environment.

N.J.A.C. 13:69-1.2(b) specifies that a casino licensee shall document reportable suspicious transactions by completing the U.S. Department of the Treasury, Financial Crimes Enforcement Network's (FinCen) form for that purpose. The proposed amendment to N.J.A.C. 13:69-1.2(b) simply reflects a change in title and format for that Federal form. Likewise, the proposed amendment at N.J.A.C. 13:69-1.2(c) restates and clarifies the intent of the Director of the Division to avoid duplicative reporting of suspicious transactions on the part of New Jersey casino licensees. To that end, the proposed amendment does not impose a new obligation but, in fact, codifies an existing practice which permits a casino licensee to satisfy its New Jersey suspicious transaction reporting requirement by concurrently filing with the Division a copy of any complete and timely Suspicious Activity Report by Casinos and Card Clubs (SARC) filed pursuant to the Federal reporting requirements with regard to the same transaction.

Proposed N.J.A.C. 13:69-1.6(a) does not impose any new obligation but, in fact, codifies an existing practice on the part of casino licensees of filing with the Director of the Division a copy of any SARC filed pursuant to the Federal requirements. See the Federal Standards Statement for differences in SARC reporting criteria at the State and Federal levels. Proposed N.J.A.C. 13:69-1.6(b) codifies a similar existing practice on the part of casino

licensees of filing with the Director of the Division a copy of any Currency Transaction Report by Casinos (CTRC) filed pursuant to Federal requirements. Both sections require the filing with the Director of the Division to be concurrent with the Federal filing and to be made in the manner and in such location as shall be determined by the Director.

One of the express purposes of the Act is development and implementation of a regulatory scheme capable of detecting and deterring money laundering, structuring and other types of financial crimes in the gaming environment. In furtherance of this purpose, the Director of the Division, in proposed new rule N.J.A.C. 13:69-1.7, is seeking any additional level of reporting with regard to currency transactions involving or aggregating \$200,000 or more in a gaming day. The reasoning here is that transactions at or above this amount in a single gaming day (defined for CTRC purposes as the normal business day of the casino by which it keeps its books and records for business, accounting and tax purposes) are so outside today's financial norms and so directly raise the specter that the customer may be engaged in money laundering or terrorist financing that scrutiny beyond what can reasonably be provided by a casino licensee is warranted. Again, in an effort to avoid duplicative reporting on the part of New Jersey casino licensees, the proposed new rule requires that casino licensees append to the Federally required CTRC, which is mandatory for all cash in or cash out transactions exceeding \$10,000 and is filed with the Director of the Division pursuant to proposed N.J.A.C. 13:69-1.6(b), a narrative detailing the facts and circumstances associated with the reportable transaction. Such facts and circumstances are expected to include the casino licensee's understanding, after reasonable due diligence, of the origin and/or disposition of the currency in question. The proposed new rule requires filing with the Director of the Division to be concurrent with the Federal filing (CTRC's must be filed within 15 calendar days after the date of the transaction) and to be made in the

manner and in such location as shall be determined by the Director.

The Department has determined that the comment period for this proposal shall be 60 days; therefore pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is exempted from the rulemaking calendar requirement.

Social Impact

As noted above, the proposed new rules and amendment to N.J.A.C. 13:69 refine and enhance the State's existing methodology for detecting and preventing money laundering, structuring and other types of financial crimes in the gaming environment. Added efficiencies in the detection and prevention of these types of illegal activities can be expected to have a direct, positive impact on the operational integrity of New Jersey's gaming industry and, as a corollary, on the overall stability and integrity of legitimate business and financial institutions throughout the State.

Economic Impact

The proposed new rules and amendments to N.J.A.C. 13:69 reflect a clear intent on the part of the Director of the Division to avoid duplicative and overly burdensome reporting of suspicious transactions by New Jersey casino licensees already subject to suspicious transaction and currency transaction requirements on the Federal level. State requirements notwithstanding, compliance with these existing Federal reporting requirements necessitates that New Jersey casino licensees maintain data collection and review systems capable of identifying potentially reportable transactions. In view of this, the proposed new rules and amendments can be expected to have a modest economic impact as the actual costs incurred will largely be associated with duplicating and filing Federally required reports in New Jersey. For example, the proposed amendments to N.J.A.C. 13:69-1.2 do not impose a new obligation but, in fact, codify an existing

practice which permits a casino licensee to satisfy its New Jersey suspicious transaction reporting requirement by concurrently filing with the Division a copy of any complete and timely SARC filed pursuant to the Federal reporting requirements with regard to the same transaction.

Likewise, proposed new rule N.J.A.C. 13:69-1.6 codifies existing practices pursuant to which casino licensees file with the Division copies of any SARC or CTRC filed pursuant to Federal requirements. Finally, with regard to proposed new rule N.J.A.C. 13:69-1.7, which requires specific reporting to the Director of the Division of transactions involving cash in or cash out equaling or aggregating at least \$200,000 in a gaming day, the economic impact is expected to be modest as historically such transactions are infrequent and, in the context of longstanding Federal CTRC requirements, mechanisms are already in place to capture and report such transactions.

Federal Standards Statement

The New Jersey suspicious transaction reporting requirements, as enacted in N.J.S.A. 5:12-129.1 et seq. and the rules promulgated thereunder at N.J.A.C. 13:69, became effective on October 16, 2000. The New Jersey requirements impose standards and reporting criteria similar in nature and scope to those imposed at the Federal level effective March 25, 2003 at 31 C.F.R. 103.21. The Federal standards compel casinos subject to the Bank Secrecy Act to report suspicious activity. In an effort to avoid duplicative reporting by New Jersey casino licensees, the New Jersey rules allow filing of a copy of the form utilized to effectuate the Federal filing, as hereafter amended or supplemented, to satisfy the New Jersey reporting requirements with regard to that same transaction. The New Jersey requirements differ from the Federal requirements in one material respect. The Federal requirements require reporting where the casino licensee “knows, suspects or has reason to suspect” that the transaction is potentially reportable whereas

New Jersey omits the more objective criteria and requires reporting only where the casino licensee “knows or suspects” that the transaction is potentially reportable. Thus, although the New Jersey statute and the rules promulgated thereunder, inclusive of the proposed new rules and amendments, incorporate the use of the Federal SARC form, as amended or supplemented, the election to forego the objective reporting standard reflects a clear intent not to exceed Federal standards and requirements in the subject area.

Agriculture Industry Impact

The proposed new rules and amendments will have no impact on the agriculture industry of this State.

Jobs Impact

The proposed new rules and amendments are not expected to have an impact upon jobs, including the generation or loss of jobs, in the gaming industry or any other sector of the State’s economy.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required. The proposed new rules and amendments apply to casino licensees, none of which is a “small business” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., because they employ more than 100 persons full-time within the State of New Jersey.

Smart Growth Impact

The proposed new rules and amendments would have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus])

13:69-1.2 Suspicious transaction reporting

- (a) (No change)
- (b) Casino licensees shall document suspicious transactions reportable under this chapter by completing the U.S. Department of the Treasury, Financial Crimes Enforcement Network's (FinCen) Form [TD F90-22.49] 102 (April 2003), Suspicious Activity Report by Casinos and Card Clubs (SARC), incorporated herein by reference, as amended and supplemented, and collecting and maintaining documentation supporting said SARC. [Completion of a SARC in accordance with the instructions applicable thereto shall satisfy the reporting requirements of this chapter.]
- (c) Complete and timely reporting of a suspicious transaction pursuant to applicable Federal reporting requirements, as may be adopted or amended from time to time, shall satisfy the requirements of this chapter . Such suspicious transaction reports shall be filed with the Director concurrently with the Federal filing, but in no event shall be filed outside the filing parameters of N.J.A.C. 13:69-1.3(b). The filing shall be made in the manner and in such location as shall be determined by the Director.

13:69-1.6 Concurrent reporting

- (a) Each casino licensee shall file with the Director of the Division a copy of

any SARC it is required to file pursuant to 31 C.F.R. 103.21. Such suspicious transaction reports shall be filed with the Director concurrent with the Federal filing. The filing shall be made in the manner and in such location as shall be determined by the Director.

- (b) Each casino licensee shall file with the Director of the Division a copy of any Currency Transaction Report by Casinos (CTRC) it is required to file pursuant to 31 C.F.R. 103.22. Such currency transaction reports shall be filed with the Director concurrent with the Federal filing. The filing shall be made in the manner and in such location as shall be determined by the Director.

13:69-1.7 Currency transaction reporting

Any transaction conducted or attempted by, at or through a casino licensee involving cash in or cash out equaling or aggregating at least \$200,000 in a gaming day shall be reported to the Director of the Division. Casino licensees shall document currency transactions reportable under this chapter by appending to a copy of the CTRC required pursuant to 31 C.F.R. 103.22 a narrative, completed after reasonable due diligence, detailing the facts and circumstances associated with the reportable transaction. The narrative and applicable copy of the CTRC shall be filed with the Director concurrent with the Federal filing, but in no event later than 15 calendar days after the date of the transaction. The filing shall be made in the manner and in such location as shall be determined by the Director.